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EPA: Corps has wetlands authority

- In 1997, DEQ declared no wetlands fill permit was needed for the Elk Rapids project

By [KEITH MATHENY](#)
Record-Eagle staff writer

ELK RAPIDS - The Environmental Protection Agency has ruled that the U.S. Army Corps of Engineers has jurisdiction over a large wetlands fill here, a decision applauded by environmentalists and federal legislators who were concerned over the matter.

The fill involved several acres of wetlands off Fourth Street for the Elk Rapids Preserve housing development. It has been described by some environmentalists as one of the largest wetlands fills in Michigan in recent years.

Work at the site was halted in May, after a disagreement arose between the state Department of Environmental Quality and the U.S. Army Corps of Engineers over whether the wetlands should be regulated and permits required.

In a Tuesday letter to the U.S. Army Corps of Engineers, the chief of the EPA's waters and wetlands branch in Chicago said the Army Corps has jurisdiction over the wetlands under the federal Clean Water Act.

"Upon review, we find the wetlands of the Elk Rapids Preserve are part of a larger wetlands complex which flows into Lake Michigan," Kevin Pierard of the EPA said to Gary Mannesto, chief of the regulatory branch of the U.S. Army Corps of Engineers' Detroit office.

"Consequently, the developer of the Preserve must comply with the provisions of (the Clean Water Act), by applying to your office for, and receiving from your office, a permit to discharge dredged or filled

materials into waters of the United States," Pierard said.

The Army Corps in May sought guidance from the EPA on whether it or the DEQ had jurisdiction over the wetlands fill. DEQ officials in 1997 declared no wetlands fill permit was needed for the 32-acre project, because the wetlands was not contiguous to any stream or lake.

The Army Corps disagreed, stating in a March letter to Antrim County coordinator and planner Peter Garwood that it had jurisdiction, because the wetlands was connected to nearby Lake Michigan.

Greg Reisig, an area resident opposed to the filling of the wetlands, applauded the EPA's Tuesday ruling.

"I'm really overjoyed about it," he said. "We're still hoping for some restoration of the wetlands."

Reisig said the developers will now be required to go through the Army Corps' lengthy, detailed permitting process. He added that he believes the Corps has better wetlands enforcement capabilities than the DEQ.

"It's a general feeling among the environmental community in the state that the DEQ has not been enforcing state and federal laws on wetland protection," he said.

A request for comment from Army Corps officials was not answered Thursday.

The Elk Rapids Preserve project is owned by Grand Traverse Holding Co. A company representative, Jim Williams at Eastwood Custom Homes in Traverse City, could not be reached for comment Thursday.

In a joint statement, U.S. Sen. Carl Levin, D-Mich., and U.S. Rep. Bart Stupak, D-Menominee, hailed the EPA's decision. Both had pushed earlier this spring for EPA involvement in deciding which agency had jurisdiction over the Elk Rapids project.

"I have seen firsthand the enormity of fill, and I trust that the Corps will find that the developers must either restore the wetlands or require that they create appropriate wetlands mitigation," Stupak said.

Added Levin: "This determination will bring consistency to the administration and protection of Michigan's endangered wetlands."

Keith Matheny is the reporter for Antrim, Charlevoix and Emmet counties. He can be reached at (231) 536-0345, or at tcre_keith@yahoo.com

